

**IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MISSOURI**

In Re: 417 RENTALS, LLC

Debtor.

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Case No. 17-60935-can11
Chapter 11

**MOTION FOR RELIEF FROM STAY OR ALTERNATIVELY
FOR ADEQUATE PROTECTION**

COMES NOW Movant OakStar Bank (hereinafter "OakStar"), by and through counsel of record, and for its Motion for Relief from Stay or Alternatively for Adequate Protection hereby states to the court as follows:

1. On or about August 25, 2017, Debtor filed a voluntary Chapter 11 Bankruptcy Petition and is now operating its business as a debtor-in-possession.
2. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§1334 and 157.
3. This motion is filed pursuant to 11 U.S.C. §362 and Rule 4001 of the Bankruptcy Rules.
4. Venue is proper under 28 U.S.C. §1408 and 1409.
5. This is a core proceeding under 28 U.S.C. §157(b).
6. Christopher E. Gatley (hereinafter "Mr. Gatley") is believed to be the sole Member of the Debtor.
7. OakStar is the holder of a promissory note, executed on or about September 28, 2007 by Mr. Gatley, for value received, in the original principal amount of

\$149,787.00 payable to OakStar. Mr. Gatley modified the agreement on September 28, 2010 and October 28, 2013 (collectively referred to as “Note 0603”). Mr. Gatley promised to repay the principal amount of \$149,787.00 together with interest at the rate of 4.75% through monthly payments of \$1,276.00 per month with Note 0603 maturing on June 28, 2023. True and accurate copies of Note 0603 are attached hereto as **Exhibits A, B and C** and are incorporated herein by reference.

8. Note 0603 was secured by a Deed of Trust dated September 28, 2007 (hereinafter “Deed of Trust”) pledging certain real estate in Greene County, Missouri legally described in the Deed of Trust and including the following five (5) properties (collectively referred to as “the Collateral”), commonly known as:

- a. 1426 W. State Street, Springfield, MO 65803
- b. 1432 W. State Street, Springfield, MO 65803
- c. 1434 W. State Street, Springfield, MO 65803
- d. 1436 W. State Street, Springfield, MO 65803
- e. 1438 W. State Street, Springfield, MO 65803.

The Deed of Trust also contains an assignment of leases and rents. The Deed of Trust was recorded on October 2, 2007 with the Greene County Recorder of Deeds in Book 2007 Page 049045-7 and granted by Mr. Gatley constituting a first lien and encumbrance upon certain Real Property described therein. A true and accurate copy of the Deed of Trust is attached hereto as **Exhibit D** and incorporated herein by reference.

9. Upon information and belief, Debtor is in possession of the Collateral, has rented the Collateral, and is using the Collateral as income generating properties.
10. As of the date of filing the bankruptcy petition, the balance due and owing on Note 0603 was \$83,885.57, consisting of \$83,206.17 in principal, \$519.08 in accrued interest, \$126.32 in late charges and \$34.00 in release fees.
11. Upon information and belief, Mr. Gatley improperly conveyed to Debtor, without consideration and without notice to OakStar, the Collateral subject to the Deed of Trust granted to OakStar which secured payment of Note 0603.
12. Upon information and belief, Debtor is using the Collateral and such use results in the depreciation of the value of the property.
13. Upon information and belief, Debtor is collecting rental income from the use of the Collateral, which is owed to OakStar pursuant to the terms of Note 0603.
14. Debtor listed the value of the Collateral as \$80,500.00 in Form 206A/B (Doc. 76) and Supplement D (Doc. 76-4) filed with this Court. OakStar asserts that the value of the Collateral as stated by Debtor is less than the amount of the secured debt on the Note, as of the date of filing.
15. On November 6, 2017, the City of Springfield issued a Notice of Public Nuisance and Order of Abatement concerning the real property located at 1438 W. State Street citing Springfield City Code §§26-61 through 26-84 “Dangerous, Blighted, and Nuisance Building Code.”
16. Movant asserts that it must either be granted recourse to the Collateral or adequate protection must be ordered paid by Debtor in order to preserve and maintain

Debtor's equity in the Collateral and to assure that the value of Movant's secured position does not diminish.

17. Movant does not now have adequate protection for its security interest in the Collateral.

18. If Movant is neither granted relief from the stay nor adequate protection it will suffer irreparable loss and damage.

19. Movant is entitled to either relief from the stay or adequate protection and requests an order of the court granting either form of such relief so as to protect and maintain Movant's secured interest in the Collateral.

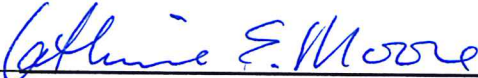
WHEREFORE, OakStar Bank prays for an Order lifting the automatic stay of 11 U.S.C. §362 as to the properties located at:

- a. 1426 W. State Street, Springfield, MO 65803
- b. 1432 W. State Street, Springfield, MO 65803
- c. 1434 W. State Street, Springfield, MO 65803
- d. 1436 W. State Street, Springfield, MO 65803
- e. 1438 W. State Street, Springfield, MO 65803.

Allowing it to foreclose upon said properties, and waiving of the requirements of Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure, or in the alternative, for an Order requiring the Debtor to pay OakStar Bank adequate protection with respect to same, and for such other and further Orders and relief as the Court deems just in the premises.

Respectfully submitted,

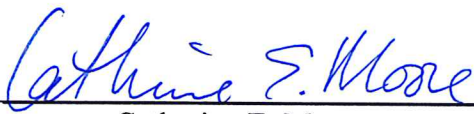
BAIRD, LIGHTNER, MILLSAP, P.C.

By 
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Attorney for OakStar Bank, N.A.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing pleading was filed electronically on the 15th day of November, 2017, and served via CM/ECF email on the Court's ECF notice list and was mailed, U.S. mail, postage prepaid on this date to:

Lloyd E. Mueller, Esq.
US Trustee
400 East 9th Street, Room 3440
Kansas City, Missouri 64106


Catherine E. Moore